

2011 No. 2021

COUNTRYSIDE, ENGLAND

**The Access to the Countryside (Exclusions and Restrictions)
(Amendment) (England) Regulations 2011**

<i>Made</i> - - - -	<i>11th August 2011</i>
<i>Laid before Parliament</i>	<i>17th August 2011</i>
<i>Coming into force</i> - -	<i>1st October 2011</i>

The Secretary of State, in exercise of the powers conferred by sections 32, 44(2), 45(1), and 94 of the Countryside and Rights of Way Act 2000(a), makes the following Regulations.

Title, commencement and application

1.—(1) These Regulations may be cited as the Access to the Countryside (Exclusions and Restrictions) (Amendment) (England) Regulations 2011 and come into force on 1st October 2011.

(2) These Regulations apply in relation to England only.

Amendments to the Access to the Countryside (Exclusions and Restrictions) (England) Regulations 2003

2. The Access to the Countryside (Exclusions and Restrictions) (England) Regulations 2003(b) are amended as follows.

Amendment to regulation 2

3. In regulation 2 (general interpretation), in paragraph (1), omit—

““the Agency” means the Countryside Agency;”.

Amendment to regulation 6

4. In regulation 6 (applications for a direction under section 24 or 25)—

(a) in paragraph (1)—

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- (a) 2000 c.37. Section 45(1) contains definitions of “prescribed” and “regulations”. Section 1(2)(a) was amended (as regards the definition of “the appropriate countryside body”) by paragraph 154 of Schedule 11 to the Natural Environment and Rural Communities Act 2006 (c.16). Sections 1 and 45 were amended by section 303(1), (2) and (9) of the Marine and Coastal Access Act 2009 (c.23), including by inserting a definition of “coastal margin”. Section 1 of the 2000 Act was modified in its application to land which is coastal margin by Part 4 of the Schedule to S.I. 2010/558; Chapter 2 of Part 1 of the 2000 Act was modified in its application to land which is coastal margin by Part 3 of the Schedule to S.I. 2010/558; and Schedules 1 and 2 to the 2000 Act were modified in their application to land which is coastal margin by Parts 1 and 2 (respectively) of the Schedule to S.I. 2010/558.
- (b) S.I. 2003/2713, amended by the Access to the Countryside (Exclusions and Restrictions)(England)(Amendment) Regulations 2006 (S.I. 2006/990).

- (i) in sub-paragraph (f), omit “and”;
- (ii) in sub-paragraph (g), at the end, for the full stop substitute “; and”; and
- (iii) after paragraph (1)(g) add—
 - “(h) whether the land is coastal margin;” and
- (b) after paragraph (2) add—
 - “(3) Paragraphs (4) to (7) apply where an application referred to in paragraph (1) relates to land which is coastal margin.
 - (4) Where the proposed direction would authorise a specified person to exclude or restrict access to land in a manner specified in the direction, the application must state—
 - (a) the name of the specified person, and
 - (b) the manner in which access may be excluded or restricted by the specified person.
 - (5) Where the proposed direction would authorise a specified person to exclude or restrict access to such part or parts of the land as may be determined in accordance with the direction, the application must state—
 - (a) the name of the specified person, and
 - (b) the manner in which the part or parts of the land to which access may be excluded or restricted is to be determined by the specified person.
 - (6) Where the period in the proposed direction is to be determined by a specified person, the application must state—
 - (a) the name of the specified person, and
 - (b) the manner in which the specified period may be determined by the specified person.
 - (7) The application must include the names of any person who —
 - (a) is an owner of the land,
 - (b) holds a term of years absolute in the land, or
 - (c) is in lawful occupation of the land.”.

Amendment to regulation 7

5. In regulation 7 (notices relating to periods during which exclusions or restrictions are to apply)—

- (a) in paragraph (1)—
 - (i) after “25”, insert “, 25A”;
 - (ii) after “relevant person,” where it first appears, insert—
 - “where the direction so requires;”;
- (b) in paragraph (4)(a), after “for the direction” insert “or, if a person is specified in the direction, that person”; and
- (c) in paragraph (4)(b), after “25” insert “, 25A”.

Amendment to regulation 9

6. In regulation 9 (consultation on proposals for long-term exclusions or restrictions) —

- (a) in paragraph (1), for paragraphs (a) and (b) substitute—
 - “a copy of the notice referred to in paragraph (3)”;
- (b) in paragraph (3)—
 - (i) after “25”, insert “, 25A”;
 - (ii) for sub-paragraph (c) substitute—

“(c) states how copies of documents relating to the proposed direction may be obtained;
”

(iii) in sub-paragraph (d), at the end, for the full stop substitute “; and”; and

(iv) after sub-paragraph (d) add—

“(e) includes the information specified in regulation 6(1)(b) to (h)”;

(c) in paragraph (5)(a), after “25”, insert “, 25A”.

Amendment to regulation 11

7. In regulation 11(notification by relevant authorities of directions and decisions), in paragraph (b), for “section 26” substitute “section 25A or 26”.

Amendment to regulation 14

8. In regulation 14 (reviews of directions), after “25” insert “, 25A”.

Amendment to regulation 15

9. In regulation 15 (consultation on reviews by relevant authorities of directions excluding or restricting access on a long-term basis), in paragraph (1), for “section 24, 25 or 26” substitute “section 24, 25, 25A or 26”.

Amendment to regulation 17

10. In regulation 17 (informing the public of exclusions or restrictions)—

(a) in paragraph (1)(b), after “25” insert “, 25A”;

(b) in paragraphs (1) and (2), for “The Agency” substitute “Natural England”;

(c) in paragraph (3), after “25” insert “, 25A”; and

(d) in paragraphs (3), (4) and (5) (in each place where it occurs), for “the Agency” substitute “Natural England”.

Amendment to regulation 19

11. In regulation 19 (interpretation), after the definition of “questionnaire”, insert—

““relevant website” means a website maintained by the Secretary of State for purposes which include making available for inspection certain notices, decisions and notifications relating to an appeal under this Part;”.

Amendment to regulation 23

12. In regulation 23 (notification of start of appeal etc), in paragraph (3), for “website maintained by the Planning Inspectorate Executive Agency” substitute “relevant website”.

Amendment to regulation 29

13. In regulation 29 (site inspections (appeals to be determined on the basis of written representations)), in paragraph (1), omit “; and the Secretary of State shall arrange for such an inspection to be made if so requested by the appellant or the relevant authority”.

Amendment to regulation 31

14. In regulation 31 (notification of decision), for “website maintained by the Planning Inspectorate Executive Agency” substitute “relevant website”.

Amendment to regulation 32

15. In regulation 32 (date and notification of hearing), in paragraph (6), for “the Planning Inspectorate Executive Agency makes a copy of such notice available for inspection on a website which it maintains” substitute “a copy of such notice is available for inspection on a relevant website”.

Amendment to regulation 37

16. In regulation 37 (site inspections (appeals determined by way of a hearing)), in paragraph (2), omit “; and the inspector shall arrange to make such an inspection if requested to do so by the appellants or the authority at any time before or during the hearing in relation to an appeal”.

Amendment to regulation 40

17. In regulation 40 (notification of decision - appeals determined by the Secretary of State), in paragraph (6), for “the website maintained by the Planning Inspectorate Executive Agency” substitute “a relevant website”.

Amendment to regulation 41

18. In regulation 41 (notification of decision – transferred appeals), in paragraph (5), for “website maintained by the Planning Inspectorate Executive Agency” substitute “relevant website”.

Amendment to regulation 45

19. In regulation 45 (date and notification of inquiry) in paragraph (6), for “the Planning Inspectorate Executive Agency makes a copy of such notice available for inspection on a website which it maintains” substitute “a copy of such notice is available for inspection on a relevant website”.

Amendment to regulation 51

20. In regulation 51 (site inspections (appeals to be determined by way of an inquiry)), in paragraph (1), omit “; and the inspector shall arrange to make such an inspection if so requested by the appellants or the relevant authority before or during the inquiry in relation to an appeal”.

Amendment to regulation 54

21. In regulation 54 (notification of a decision - appeals determined by the Secretary of State), in paragraph (6), for “the website maintained by the Planning Inspectorate Executive Agency” substitute “a relevant website”.

Amendment to regulation 55

22. In regulation 55 (notification of decision-transferred appeals), in paragraph (5)—
- (i) for “state” substitute “State”; and
 - (ii) for “the website maintained by the Planning Inspectorate Executive Agency” substitute “a relevant website”.

Amendment to regulation 57

23. In regulation 57 (arrangement and notification of hearing), in paragraph (c), for “website maintained by the Secretary of State” substitute “relevant website”.

Amendment to regulation 61

24. In regulation 61 (notification of decision- appeals determined by the Secretary of State) in paragraph (2), for “the website maintained by the Planning Inspectorate Executive Agency” substitute “a relevant website”.

Amendment to regulation 62

25. In regulation 62 (notification of decision- transferred appeals), in paragraph (2), for “the website maintained by the Planning Inspectorate Executive Agency” substitute “a relevant website”.

Amendment to regulation 64

26. In regulation 64 (changes of procedure), in paragraph (2)(b), for “website maintained by the Planning Inspectorate Executive Agency” substitute “relevant website”.

Amendment to regulation 68

27. In regulation 68 (changes of procedure), in paragraph (5)(a)(ii), for “website maintained by the Planning Inspectorate Executive Agency” substitute “relevant website”.

11th August 2011

Richard Benyon
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

EXPLANATORY NOTE

(This note is not part of the Regulations)

Part 1 of the Countryside and Rights of Way Act 2000 (“the Act”) confers a public right of access to certain types of land, subject to certain conditions. Chapter 2 of Part 1 provides for the exclusion or restriction of this right in certain circumstances. Chapter 2 was modified by article 8 of, and Part 3 of the Schedule to, the Access to the Countryside (Coastal Margin) (England) Order 2010 (S.I. 2010/558) (“the Coastal Margin Order”) in relation to land which is coastal margin (as defined by section 1(2) of the Act). These Regulations, which apply in relation to England only, amend the Access to the Countryside (Exclusions and Restrictions) (England) Regulations 2003 (S.I. 2003/2713) (“the 2003 Regulations”) which were themselves amended by the Access to the Countryside (Exclusions and Restrictions)(England)(Amendment) Regulations 2006 (S.I. 2006/990).

The 2003 Regulations contain provision relating to the exclusion or restriction of the right of access conferred by Part 1 of the Act, and in particular set out the procedures on an application to a relevant authority (as defined by section 21(5) of the Act(a)) for a direction excluding or restricting access under Part 1 of the Act. They also set out the procedure for an appeal under the Act where a relevant authority has decided not to act in accordance with an application for a direction.

These Regulations amend the 2003 Regulations as they relate to land which is coastal margin, by—

(a) Section 21(5) was modified, in its application in relation to land which is coastal margin, by article 8 of, and paragraph 15(1)(a) of Part 3 of the Schedule to the Coastal Margin Order.

- (a) specifying the information to be included in an application for a direction under section 24 or 25 (regulation 4); and
- (b) making amendments consequential on the insertion by the Coastal Margin Order of section 25A (power to make directions to exclude or restrict access on salt marshes and flats) in Chapter 2 (regulations 5-10).

These Regulations also –

- (a) amend regulation 9 of the 2003 Regulations (consultation on proposals for long-term exclusions or restrictions) to streamline the requirements for the provision of information during a consultation (regulation 6); and
- (b) remove the right of the appellant or the relevant authority to request site inspections in certain circumstances on an appeal (regulations 13, 16 and 20).

A separate Impact Assessment has not been prepared in respect of these Regulations, because the Impact Assessment which was prepared for Part 9 of the Marine and Coastal Access Act 2009 (Coastal Access) examined the impact of the implementation of Part 9 of which these Regulations form part. In so far as these Regulations have effect in relation to the right of access under Part 1 of the 2000 Act as it applies in relation to land which is open country or registered common land (as defined by section 1(2) and (3) of the 2000 Act), no burden on the private, voluntary or public sector is foreseen.

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STATUTORY INSTRUMENTS

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